

Blyden Delany Academy_____

2466 W. McKinley Avenue
Milwaukee, WI 53205
(T) 414.933.1130
(F) 414.933.4544

March 7, 2001

**Appeal - Request for Review
CC Docket No. 02-6**

Blyden Delany Academy
2466 W. McKinley Ave.
Milwaukee, WI 53205
P: 414-933-1130
F: 414-933-4544
BEN 218751

RE: Appeal for denial of 2006 funding for:

FRN: 1426214, 1426231, 1426343, 1426361

Form 470: 489480000360373

Form 471: 518363, 518423

Category of service: Telecommunications, Internet Access, Internal Connections, Basic Maintenance

Service provider: Technology Advantage 143028587

To whom it may concern,

Blyden Delany Academy would like to appeal the decision made by USAC on January 26, 2007 regarding our initial appeal of their Funding Commitment Decision Letter. All the pertinent information is attached in the appeal letter to USAC.

In brief, the initial denial was due to the fact that Blyden Delany Academy made the decision to finance our non discount portion of e-rate. We feel USAC made an error in this decision, for we showed we had the money in our budget at the time the Form 471 was submitted. It was between the time the Form 471 was submitted and the Selective Review Team inquired on this issue did we feel it would be in our best interest to finance this money. We feel there are three points worth mentioning, however. 1) The USAC website states the following:

NO. of Copies rec'd _____
List A B C D E

Applicants must be able to demonstrate that they have secured access to all of the resources necessary to make effective use of the products and services for which they receive discounts.

Item 26 on the *Services Ordered and Certification Form* (Form 471) is a certification that the applicant has secured access to the resources necessary to pay for:

- 1. the non-discounted portion of the costs for eligible services within the funding year**
- 2. ineligible products and services (including computers, training, application software, maintenance, and electrical connections) to make effective use of the eligible services you have requested**

"Secured access" means that you can show that these funds are, or will be, part of your annual budget; or, if you are obtaining funds from an outside source, that these funds have been promised to you. If you obtain these funds from an outside source, the funds must not come directly or indirectly from your service provider(s).

First of all, through the wording on the website, obtaining funds from an outside source is allowed as long as it is not from the service provider. Second, we were never asked for proof from the Selective Review Team that we had secured the funds from the financing company, it must have been assumed that we did not. Third, and most important, our budget clearly shows that we had, and still have, the money allocated and secured for our non-discount portion of the e-rate program, regardless if we wanted to finance or not. That was/is money that was budgeted for before the Form 471 was submitted.

Please give strong consideration to overturning USAC's decision. We feel they have made an error in judgment and that our school deserves the funding this program was designed to provide.

Thank you,

Thanks



Taki S. Raton

FUNDING COMMITMENT REPORT
 Billed Entity Name: **BLYDEN DELANEY ACADEMY**
 BEN: 218751
 Funding Year: 2006

Fora 471 Application Number: 518363
 Funding Request Number: 1426214
 Funding Status: Not Funded
 Category of Service: Telecommunications Service
 Form 470 Application Number: 489480000560373
 SPIN: 143028587
 Service Provider Name: Technology Advantage LLC
 Contract Number: BLYD0607C
 Billing Account Number: 414-933-1131
 Service Start Date: 07/01/2006
 Contract Expiration Date: 06/30/2007
 Site Identifier: 218751
 Number of Months Recurring Service Provided in Funding Year: 12
 Annual Pre-discount Amount for Eligible Recurring Charges: \$11,808.00
 Annual Pre-discount Amount for Eligible Non-recurring Charges: \$.00
 Re-discount Amount: \$11,808.00
 Discount Percentage Approved by the USAC: N/A
 Funding Commitment Decision: \$0.00 - Selective- Insuff Support Res
 Funding Commitment Decision Explanation: The applicant share is being financed through an extended payment term. Therefore, you have not demonstrated that you have secured access to the resources to pay your non-discounted portion within the relevant funding year.

FCDL Date: 09/19/2006
 Wave Number: 622
 Last Allowable Date for Delivery and Installation for Non-Recurring Services: 09/30/2007

Funding Request Number: 1426231
 Funding Status: Not Funded
 Category of Service: Internet Access
 Form 470 Application Number: 489480000560373
 SPIN: 143028587
 Service Provider Name: Technology Advantage LLC
 Contract Number: BLYD0607C
 Billing Account Number: 414-933-1131
 Service Start Date: 07/01/2006
 Contract Expiration Date: 06/30/2007
 Site Identifier: 218751
 Number of Months Recurring Service Provided in Funding Year: 12
 Annual Pre-discount Amount for Eligible Recurring Charges: \$3,537.36
 Annual Pre-discount Amount for Eligible Non-recurring Charges: \$1,562.10
 Pre-discount Amount: \$5,099.46
 Discount Percentage Approved by the USAC: N/A
 Funding Commitment Decision: \$0.00 - Selective- Insuff Support Res
 Funding Commitment Decision Explanation: The applicant share is being financed through an extended payment term. Therefore, you have not demonstrated that you have secured access to the resources to pay your non-discounted portion within the

FCDL Date: 09/19/2006
 Wave Number: 622
 Last Allowable Date for Delivery and Installation for Non-Recurring Services: 09/30/2007

LETTER OF APPEAL

11-15-2006

Letter of Appeal
Schools and Libraries Division - Correspondence Unit
100 South Jefferson Road, P.O. Box 902,
Whippany, New Jersey 07981

Appellant:

Blyden Delany Academy
2466 W. McKinley Ave.
Milwaukee, WI 53205
P: 414-933-1130
F: 414-933-4544
BEN: 218751

RE: Appeal for denial of 2006 funding for:

FRN: 1426214, 1426231, 1426343, 1426361

Form 470 489480000560373

Form 471: 518363, 518423

Category of service: Telecommunications, Internet **Access**, Internal **Connections**,
Basic Maintenance

Service provider: Technology Advantage **143028587**

To Whom It May Concern:

Blyden Delany Academy is appealing the denial of 2006 funding for the above referenced funding **requests**. The denials were in a funding commitment letter we received dated 9-19-2006.

- ***SLD's reason for denying all four funding requests:*** The applicant share is being financed through an extended payment term. Therefore, you have not demonstrated that you have secured access to the resources to **pay** your non-discounted portion within the relevant funding year
- ***Blyden Delany's rebuttal of the SLD's reason for denying the request:*** The decision to finance the non-discounted portion of the funding request was made between the time Blyden Delany submitted out Form **471** and when the Selective Review **requests** were made (**see** included letter). The fact ~~that the~~ letters sent to the Selective Review team stated Blyden Delany was in the process of *making* arrangements to finance their non discount portion in no way indicated they did not have the money budgeted at the time

they submitted the Form **471**, which they did. In fact, their budget still reflects the fact that they had the money secured, and do to this day.

- **Further documentation:** Below is copied from USAC's website.

Applicants must be able to demonstrate that they have secured access to all of the resources necessary to make effective use of the products and services for which they receive discounts.

Item 25 on the *Services Ordered and Certification Form* (Form 471) is a certification that the applicant has secured access to the resources necessary to pay for:

1. the non-discounted portion of the costs for eligible services within the funding year
2. ineligible products and services (including computers, training, application software, maintenance, and electrical connections) to make **effective** use of the eligible services you have requested

"Secured access" means that you can show that these funds are, or will be, part of your annual budget; or, if you are obtaining funds from an outside source, that these funds have **been** promised to you. If you obtain these funds from an outside source, the funds must not come directly or indirectly from your service provider(s)

What **was** interpreted by Blyden Delany was that financing **was/is** an option, **as** long as it is promised. There was at no time during the Selective Review process that any reviewer asked to see a loan approval document from any financial institution. We feel it is an incorrect assumption that the funds were not **secured** at the time. We also feel it is **an** incorrect assumption that any applicant that decides to receive their non discount portion from an outside source automatically indicates that the applicant did not have the **funds secured** in their budget at the time the Form **471** was submitted.

I hope you will see from the above information that our appeal **has** merit and that it should be granted. If you have any questions, please do not hesitate to contact me. Thank you.

Sincerely,

Taki Raton
School Administrator
11-15-2006


SRIR Budget financing letter June 06

To whom it may concern

We are still in the approval stage of **ow** budget development. A final approved budget is contingent on the approval of our board of directors. All lines items are based on previous years' numbers which are forecast **as** being the true allocations to be approved. Our 10% **non** discount portion equaling **\$22,359.63** has already been approved by the board so it will not be affected by the outcome of the board's **final** budget decision.

We are also in the approval stage of financing **our** 10% non discount portion. Even though we have the **monies** in **our** budget, we will attempt to finance this portion to free up more money for staff development and **additional** end user equipment. **The \$22,359.63** will be financed over 3 years with a monthly payment of approximately \$750 per month which will be taken out of the line item for the 10% nondiscount portion of our budget.

Thank you


Taki Raton
School Administrator

**Blyden Delany Proposed
Budget Summary
2006-2007**

Revenue

3001	DPI - 90 Count	\$ 553,807.00
3002	Title Money	\$ 16,030.00
3003	Fund Raisers	\$ 137.45
Total		\$ 569,974.45

Expenses

4201	Rent	\$ 67,400.00
4202	Salaries / Benefits	\$ 256,937.00
4203	School Supplies	\$ 121,400.00
4204	Utilities	\$ 12,200.00
4205	Staff Training	\$ 2,500.00
4206	Transportation	\$ 69,000.00
4207	Food Costs	\$ 11,700.00
4208	Computers and Equipment	\$ 3,000.00
4209	10% non discount portion of e-rate	\$ 22,360.00
Total		\$ 566,497.00

Net Surplus / (Deficit)	\$ 3,477.45
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Universal Service Administrative Company
Schools & Libraries Division

Administrator's Decision on Appeal – Funding Year 2006-2007

January 26, 2007

Todd Gilbert
Dot.23
3404 Anderson Drive
Eau Claire, WI 54703

Re: Applicant Name: BLYDEN DELANY ACADEMY
Billed Entity Number: 218751
Form 471 Application Number: 518363
Funding Request Number(s): 1426214, 1426231
Your Correspondence Dated: November 15, 2006

After thorough review and investigation of all relevant facts, the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (USAC) has made its decision in regard to your appeal of USAC's Funding Year 2006 Funding Commitment Decision Letter for the Application Number indicated above. This letter explains the basis of USAC's decision. The date of this letter begins the 60 day time period for appealing this decision to the Federal Communications Commission (FCC). If your Letter of Appeal included more than one Application Number, please note that you will receive a separate letter for each application.

Funding Request Number(s): 1426214, 1426231
Decision on Appeal: **Denied**
Explanation:

- During the Appeal Review USAC thoroughly assessed the facts presented in the appeal letter, the relevant documentation on file, and the FCC Rules and Procedures before making its determination on your appeal. During the Selective Review, you were sent the Selective Review Information Request (SRIR) on May 3, 2006, requesting information pertaining to budget, vendor selection, bids, and contract documentation. Since no response was received, USAC sent the SRIR again on May 24, 2006, with a copy to the State E-Rate Coordinator. On May 30, 2006, you requested and were granted an extension to June 9, 2006. In your response to the SRIR on June 9, 2006, you provided information that explains that the applicant will finance their non-discounted costs over three years. The information clearly stated that \$750.00 per month would be taken out of the draft budget line item 4209 for E-rate. Since they are not allocating the entire non-

discounted portion within funding year 2006, USAC determined that when the applicant filed their Form 471, they had not secured the access to funds necessary to pay their portion of the nondiscounted charges. As is noted on USAC's website, <http://www.usac.org/sl/applicants/step11/obligation-to-pay.aspx>, "Secured access' means that you can show that these funds ~~are~~, or will be, part of your annual budget." Program rules require that the applicant has secured access to the funds necessary to pay their portion of the non-discounted charges within the funding year. The applicant has failed to provide evidence on appeal that USAC erred in its initial decision.

- USAC's review of your application indicated that the information you provided during the Item 25 review was not sufficient to demonstrate that, at the time you submitted your Form 471 application, you had secured **access** to these funds. In your appeal, you did not demonstrate that at the time you submitted your Form 471 application, you had secured access to these funds. Consequently, USAC denies your appeal
- FCC Rules require applicants to certify that, at the time they submit the FCC Form 471, they have secured access to **all** of the resources, including computers, training, software, maintenance, and electrical connections necessary to make effective use of the products and/or services purchased as well as to pay the non-discounted charges for eligible products and/or services. 47 C.F.R. sec. 54.504(c)(1)(iii); FCC Form 471, Block 6 Item 25. USAC reviews this certification by conducting an Item 25 "necessary resources" review. The FCC has emphasized the importance of conducting this review to protect the integrity of the schools and libraries support mechanism. See Request for Review by New Orleans Public Schools, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc., CC Docket Nos. 96-45 and 97-21, Order, 16 FCC Rcd. 16653, DA 01-2097 (rel. Sep. 18, 2001). This rule requires the applicant to pay its service provider the full cost of the non-discounted portion owed to the service provider from the funds budgeted within that funding year.

If your appeal has been approved, but funding has been reduced or denied, you may appeal these decisions to either USAC or the FCC. ~~For~~ appeals that have ~~been~~ denied in full, partially approved, dismissed, or canceled, you may file an appeal with the FCC. You should refer to CC Docket ~~No.~~ 02-6 on the first page of your appeal to ~~the~~ FCC. Your appeal must be received or postmarked within **60** days of the date on this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. If you are submitting your appeal via United States Postal Service, send to: FCC, Office of the Secretary, 445 12th Street SW, Washington, DC 20554. Further information and options for filing ~~an~~ appeal directly with the FCC can be found in the "Appeals Procedure" posted in the Reference Area of the **SLD** section of the USAC website ~~or~~ by contacting the Client Service Bureau. We strongly recommend that you use the electronic **filing** options.

We thank you for your continued support, patience and cooperation during the appeal process.

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BEN: 218751
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Site Identifier: 218751
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Pre-discount Amount: \$11,808.00
Discount Percentage Approved by the USAC: N/A
Funding Commitment Decision: \$0.00 - Selective- Insuff Support Res
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Schools and Libraries Division
Universal Service Administrative Company

cc: **Taki S. Raton**

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Marlene H. Dortch, Secretary
Federal Communications Commission

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